

MINUTES

**NATIVE AMERICAN GRAVES PROTECTION AND
REPATRIATION REVIEW COMMITTEE**

FORTIETH MEETING

OCTOBER 30-31, 2009

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Background

The Native American Graves Protection and Repatriation Review Committee was established under the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001 et seq., which was signed into law by President George Bush on November 16, 1990.

Pursuant to 25 U.S.C. 3006 (c) and (h), the Review Committee is responsible for –

1. Designating one of the members of the committee as chairman;
2. Monitoring the inventory and identification process conducted under sections 5 and 6 to ensure a fair, objective consideration and assessment of all available relevant information and evidence;
3. Upon the request of any affected party, reviewing and making findings related to-
 - A. The identity or cultural affiliation of cultural items, or
 - B. The return of such items;
4. Facilitating the resolution of any disputes among Indian tribes, Native Hawaiian organizations, or lineal descendants and Federal agencies or museums relating to the return of such items including convening the parties to the dispute if deemed desirable;
5. Compiling an inventory of culturally unidentifiable human remains that are in the possession or control of each Federal agency and museum and recommending specific actions for developing a process for disposition of such remains;
6. Consulting with Indian tribes and Native Hawaiian organizations and museums on matters within the scope of the work of the committee affecting such tribes or organizations;
7. Consulting with the Secretary in the development of regulations to carry out this Act;
8. Performing such other related functions as the Secretary may assign to the committee;
9. Making recommendations, if appropriate, regarding future care of cultural items which are to be repatriated; and
10. Submitting an annual report to the Congress on the progress made, and any barriers encountered, in implementing this section during the previous year.

The Review Committee is organized and administered according to the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix (1994).

Six Review Committee members are appointed by the Secretary of the Interior from nominations by Indian tribes, Native Hawaiian organizations, traditional Native American religious leaders, national museum organizations, and scientific organizations. One Review Committee member is appointed by the Secretary from a list of persons developed and unanimously approved by the other members.

The Review Committee reports to the Secretary of the Interior. Under the Review Committee's charter, the Manager, National NAGPRA Program, National Park Service (NPS) or a designee serves as the Designated Federal Officer (DFO) to the Review Committee. The DFO oversees the activities of the Review Committee and coordinates NPS administrative and staff support to the Review Committee on behalf of the Secretary of the Interior.

Additional information about the Review Committee – including the Review Committee's charter, membership, meeting protocol, and dispute procedures – is available at the National NAGPRA Website, <http://www.nps.gov/history/nagpra> (click on "Review Committee").

Notice of this Review Committee meeting was published in the Federal Register on April 30, 2009 (Vol. 74, No. 82, page 19979-19980).

The 40th Meeting of the Review Committee

The 40th meeting of the Native American Graves Protection and Repatriation Review Committee was called to order by Mr. Dan Monroe, Acting Chair, at 8:40 a.m., Friday, October 30, 2009. Ms. Augustine offered an invocation on the morning of October 30, 2009. Mr. Bobby C. Billie offered an invocation on the morning of October 31, 2009.

Review Committee members present –

Mr. Dan Monroe – Chair

Ms. Sonya Atalay

Ms. Donna Augustine

Mr. Eric Hemenway

Ms. Rosita Worl

Mr. Mervin Wright, Jr.

Review Committee member absent –

Mr. Alan Goodman

Designated Federal Officer present –

Mr. David Tarler, Training and Civil Enforcement Coordinator, National NAGPRA Program

National Park Service/Department of the Interior staff in attendance –

Ms. Sherry Hutt, Program Manager, National NAGPRA Program, National Park Service

Ms. Robin Coates, Secretary, National NAGPRA Program, National Park Service

Ms. Sangita Chari, Grants Coordinator, National NAGPRA Program, National Park Service

Ms. Lesa Koscielski, Contractor, National NAGPRA Program, National Park Service

Ms. Carla Mattix, Division of Parks and Wildlife, Office of the Solicitor, Department of the Interior

Mr. Stephen Simpson, Division of Indian Affairs, Office of the Solicitor, Department of the Interior

Persons in attendance during part or all of the meeting (names and affiliations as provided by attendees) –

Ms. Christine Abrams, Tonawanda Band of Seneca Indians, Haudenosaunee Standing Committee, Basom, NY

Ms. Rebecca Austin, Florida Gulf Coast University, Fort Myers, FL

Ms. Jan Balsom, Grand Canyon National Park, Grand Canyon, AZ

Ms. Sarah Bankoff, SUNY Oswego, Oswego, NY

Mr. Uzi Baram, New College of Florida, Sarasota, FL

Ms. Jan Bernstein, Bernstein & Associates, Denver, CO

Mr. Bill Billeck, Smithsonian Institution, National Museum of Natural History, Washington, DC

Mr. Bobby C. Billie, Council of the Original Miccosukee Simanolee Nation, Clewiston, FL

Ms. Susan Bruning, Society for American Archaeology, Southlake, TX

Ms. Christina Cain, University of Colorado – Boulder, Boulder, CO

Ms. June Carpenter (appearing telephonically), Osage Nation, OK

Ms. Mary Carroll, National Park Service, Denver, CO

Mr. Christian G. Carron, Grand Rapids Public Museum, Grand Rapids, MI

Ms. Janet Cohen, Grand Canyon National Park, Grand Canyon, AZ

Ms. Summer Cohen, Keweenaw Bay Indian Community, Baraga, MI

Mr. Chip Colwell-Chanthaphonh, Denver Museum of Nature & Science, Denver, CO

Ms. Darlene Conrad (appearing telephonically), Northern Arapaho Tribe, WY

Mr. Kevin Daugherty, Pokagon Band of Potawatomi Indians, Dowagiac, MI

Ms. Sandra Dong, Peabody Museum of Archaeology and Ethnology, Cambridge, MA

Mr. Kevin Downs, Grand Rapids Public Museum, Grand Rapids, MI

Mr. Eric Duff (appearing telephonically), Georgia Department of Transportation

Mr. Clayton Dumont, San Francisco State University, San Francisco, CA

Mr. T. J. Ferguson, University of Arizona, Tucson, AZ

Ms. Kathryn S. Finau, Pioneer Historical Society of Bent County, Los Animas, CO

Ms. Sheila Goff, Colorado Historical Society, Denver, CO

Ms. Vernelda Grant, San Carlos Apache Tribe, San Carlos, AZ

Mr. Bill Hamilton, FL

Ms. Jennifer Hardin, National Park Service, El Portal, CA

Mr. Leo Henry (appearing telephonically), Tuscarora Nation of New York, NY

Ms. Ellen Middlebrook Herron, Indian Temple Mound Museum, Fort Walton Beach, FL

Mr. Eric Hollinger, Smithsonian Institution, Natural History Museum, Washington, DC

Ms. Andrea Hunter (appearing telephonically), Osage Nation

Mr. Jordan Jacobs, American Museum of Natural History, New York, NY

Mr. Vincent Jimmie, Council of the Original Miccosukee Simanolee Nation, Ochopee, FL
 Mr. Joseph Joaquin, Tohono O'odham Nation, Sells, AZ
 Mr. John F. C. Johnson, Chugach, Smithsonian Review Committee, Anchorage, AK
 Ms. Christine Landrum, National Park Service, Intermountain Region, Denver, CO
 Ms. Shannon Larsen, Ancient Trees, Orange Park, FL
 Ms. Michelle Leahy, New College of Florida, Sarasota, FL
 Ms. Elise V. LeCompte, Florida Museum of Natural History, Gainesville, FL
 Mr. Stephen Lekson, University of Colorado Museum, Boulder, CO
 Ms. Dorothy Lippert, National Museum of Natural History, Washington, DC
 Mr. Jeff Malcolm, Government Accountability Office, Washington, DC
 Ms. Cyd Martin, National Park Service, Intermountain Region, Denver, CO
 Mr. Steven Martin, Grand Canyon National Park, Grand Canyon, AZ
 Ms. Sydney Martin, Match-e-be-nash-she-wish Band of Potawatomi Indians, Hopkins, MI
 Ms. Marilyn Merdzinski, Grand Rapids Public Museum, Grand Rapids, MI
 Ms. Gail Lynn Meyer, Indian Temple Mound Museum, Fort Walton Beach, FL
 Ms. Nell Murphy, American Museum of Natural History, New York, NY
 Ms. Jennifer Murray, National Museum of Natural History, Washington, DC
 Mr. Angela Neller, Wanapum Heritage Center, Ellensburg, WA
 Ms. Shannon K. O'Loughlin, Onondaga Nation, Syracuse, NY
 Mr. Cecil Osceola, Council of the Original Miccosukee Simanolee Nation, Clewiston, FL
 Mr. Seth Pilsk, San Carlos Apache Tribe of the San Carlos Reservation, San Carlos, AZ
 Mr. Douglas Pippin, SUNY Oswego, Oswego, NY
 Mr. Matthew Putesoy, Sr., Havasupai Tribe of the Havasupai Reservation, Supai, AZ
 Ms. Erie F. Randall, Yavapai-Apache Nation of the Camp Verde Indian Reservation, Camp Verde, AZ
 Mr. Vincent E. Randall, Yavapai-Apache Nation of the Camp Verde Indian Reservation, Camp Verde, AZ
 Mr. Ramon Riley, White Mountain Apache Tribe of the Fort Apache Reservation, Fort Apache, AZ
 Ms. Helen Robbins, Field Museum, Chicago, IL
 Ms. Amanda Robinson, SUNY Oswego, Oswego, NY
 Ms. Donna Ruhl, Florida Museum of Natural History, Gainesville, FL
 Ms. Jennifer Shannon, University of Colorado – Boulder, Boulder, CO
 Ms. Lauren Sieg, Springfield, VA
 Mr. Chuck Smythe, National Park Service, Northeast Region, Boston, MA
 Mr. Terry Snowball, Smithsonian Institution, National Museum of the American Indian, Suitland, MD
 Ms. Maria Soriano, Government Accountability Office, Washington, DC
 Ms. Beth Spencer, Chicago, IL
 Mr. Ray Stands (appearing telephonically), Paiute-Shoshone Tribe of the Fallon Reservation and Colony, NV
 Ms. Sherry Svekis, Trail of Florida's Indian Heritage, Sarasota, FL
 Ms. Lanie Swanson, Little Traverse Bay Bands of Odawa Indians, MACPRA – Michigan, Harbor Springs, MI
 Ms. Andrea Taylor, Sarasota, FL
 Mr. Jonathan Taylor, Sarasota, FL
 Mr. Louis Terracio, New York University, New York, NY
 Mr. Steve Titla, San Carlos Apache Tribe of the San Carlos Reservation, San Carlos, AZ
 Ms. Brenda Todd, Park NAGPRA, Denver, CO
 Ms. Dianna Sue Uqualla, Havasupai Tribe, Supai, AZ
 Ms. Gabrielle Vail, New College of Florida, Sarasota, FL
 Mr. Michael Waas, New College of Florida, Sarasota, FL
 Ms. Winnay Wemigwase, MACPRA – Michigan, Harbor Springs, MI
 Mr. Richard Williams, Cheyenne-Arapaho Tribes of Oklahoma, Concho, OK
 Mr. Frank Wozniak, USDA Forest Service, Southwestern Region, Albuquerque, NM
 Ms. Wastewain Young (appearing telephonically), Standing Rock Sioux Tribe of North & South Dakota
 Mr. Fred York, National Park Service, Pacific West Region, Seattle, WA

Introduction/Welcome

Mr. Monroe welcomed Mr. Mervin Wright, Jr., to the Review Committee. Mr. Tarler took roll call; six members were present. Mr. Tarler stated that Mr. Goodman was absent due to illness.

Mr. Tarler welcomed Mr. Mervin Wright, Jr., Chairman of the Pyramid Lake Paiute Tribe, who was appointed to the Review Committee on July 23, 2009, by Secretary of the Interior Salazar. Mr. Wright, Jr., was nominated by the Pyramid Lake Paiute Tribe, the Comanche Nation of Oklahoma, and the Pawnee Nation of Oklahoma. Mr. Wright, Jr., succeeds Ms. Rosita Worl on the Review Committee as a member nominated by Indian tribes, Native Hawaiian organizations (NHO) or traditional religious leaders, and he was appointed to a four-year term.

Mr. Tarler welcomed Ms. Rosita Worl, who was appointed to the Review Committee on September 4, 2009, by Secretary of the Interior Salazar. Ms. Worl is President of Sealaska Heritage Institute, Vice-Chair of the Board of Sealaska Heritage Institute, a board member of the Alaska Federation of Natives, and a professor at the University of Alaska-Southeast. Ms. Worl succeeds Mr. Colin Kippen on the Review Committee as the at-large member, and she was appointed to a four-year term.

Selection of Review Committee Chair

At the Seattle, WA meeting on May 23-24, 2009, Mr. Monroe was selected as Vice Chair of the Review Committee. Mr. Monroe became Acting Chair upon the expiration of Chair Colin Kippen's term on August 8, 2009.

Mr. Monroe called for nominations for Review Committee Chair. Mr. Monroe stated that while it was his privilege to serve as Acting Chair since August, he wished to remove his name from consideration. Ms. Augustine nominated Mr. Wright, Jr., and Mr. Hemenway nominated Ms. Worl. A hand vote for the nominations resulted in a tie, with Ms. Atalay and Ms. Augustine voting for Mr. Wright, Jr., and Mr. Hemenway and Mr. Monroe voting for Ms. Worl. As a result, Mr. Monroe will continue to serve as Acting Chair until the next public meeting.

Request by the San Carlos Apache Tribe and the White Mountain Apache Tribe, through the Western Apache NAGPRA Working Group, that the Review Committee, pursuant to 25 USC 3006 (c)(3), make Findings of Fact Related to the identity of 45 items which the American Museum of Natural History has stated in Notices of Intent to Repatriate are "Cultural Items"

Clarification of Issue

Ms. Mattix stated that under Section 8(c)(3) of NAGPRA, upon the request of any affected party, the Review Committee could review and make findings related to the identity or cultural affiliation of cultural items or the return of such items. The Review Committee's Review and Findings Procedures (May 2003) are available on the National NAGPRA Program website. Ms. Mattix described the fact-finding process as informal, and she advised the Review Committee that they were not required to reach a decision.

Mr. Wright, Jr., asked about the determinations that museums and Federal agencies must make with respect to disposition requests. Ms. Mattix stated that NAGPRA requires the museum or Federal agency to make a determination regarding the object category – unassociated funerary object, object of cultural patrimony, or sacred object – and that this determination is part of the administrative record. Mr. Simpson stated that the statute does not require a notice for summary items. In writing the regulations, the NPS weighed how much information to require in notices in order to ensure that Indian tribes and NHOs were able to identify areas of interest while not requiring the objectionable disclosure of culturally sensitive information. Relying upon a recommendation from the Review Committee, the NPS reduced the requirement from an object-by-object listing to a description that was sufficient to notify potential claimants about the impending disposition of cultural items.

Presentation

Mr. Vincent Randall, Manager, Apache Culture/Traditional Cultural Authority, Yavapai-Apache Nation of the Camp Verde Indian Reservation (Yavapai-Apache Nation), formally introduced himself and stated it was a privilege to appear before the Review Committee. Mr. Randall stated that the claimed items belong to Holy Beings on whom the Apache people's well-being depends. The Holy Beings were accorded great respect, which included taking the necessary steps to ensure the proper handling and disposition of the Holy Beings' items. This proper handling often required repatriation and the public recognition that the knowledge of the Holy Beings, passed down for countless generations, was true for all Apaches now and in the past. The information provided by the Apache claimants to the American Museum of Natural History demonstrated and affirmed that the 45 items in question were both sacred objects and objects of cultural patrimony. Accepting the items with any doubt cast upon the validity of the Apache statements regarding these central beliefs would be difficult and painful. The Apaches must strive to have the American Museum of Natural History or, failing that, the Review Committee publically acknowledge that the Apaches now and at the time of alienation considered the 45 items to be both sacred objects and objects of cultural patrimony.

In addition, the Western Apache Working Group believes that NAGPRA was civil rights legislation enacted as an attempt to right past wrongs. For Apaches, this includes healing the damage caused by the alienation of the claimed items and addressing the circumstances which compelled the alienation. While repatriation of items does help to right these wrongs, NAGPRA provides for further healing when museums acknowledge that an item is an object of cultural patrimony. This acknowledgement is a tacit admission, at a minimum, that the museum had items that were not rightfully their property and, at most, that the museum was a party to wrongdoing. Mr. Randall stated that it was humiliating to have to repeatedly defend a culture that should be accepted on the basis of mutual respect.

Mr. Randall read a statement by Mr. Keith Basso, an anthropologist who has lived with the Apache people for over 40 years. Mr. Basso described sacred objects and objects of cultural patrimony based on conversations he has had with Western Apache men and women over the past 50 years. A material object that was blessed or prayed over by a Western Apache medicine man or woman became the property of one or more metaphysical powers which penetrate the object, permeate it, and transform it from an inanimate object to an animate object. The object was then alive, holy, and ready for use in traditional ceremonies. The object would retain its holy state indefinitely and was handled with great care until it was retired from active use and permanently put away. Putting an object away entailed placing it in a secure location, blessing it again, thanking it for its assistance, and leaving it undisturbed to return to its natural state. During its life, the object had a custodian or keeper, but the power that animated the objects was its rightful owner. The objects at the American Museum of Natural History identified for repatriation by the Western Apache NAGPRA Working Group were sacred objects and objects of cultural patrimony. Referring to them as merely cultural items demeans both the objects and the powers that reside within them and deprives both of the respect they require.

Mr. Randall played a recorded interview of Mr. George Starr, Ms. Lenora Robertson, and Mr. Tommy Patton. Ms. Robertson stated that her father, Mr. Starr, was 96 years old and had danced as a Crown Dancer from age 7 until he retired in the late 1980s. Mr. Starr was chosen by a medicine man to be a dancer because he was going to live a long life. Mr. Starr stated (through Mr. Patton, an interpreter) that he saw a lot of people get healed by the medicine men using the stuff they have, and identified crystals with an arrowhead. Mr. Starr said there were a lot of different healing ways with different gifts. When they were done the medicine men put the gifts away, gave them back. If they were not put away properly there would be repercussions.

Mr. Ramon Riley, White Mountain Apache Tribe, stated he was a traditional person who came from a traditional family that did ceremonies, and he was one of the select Crown Dance group. Mr. Riley shared his holy objects with the Review Committee and explained how some of the objects came to be. Mr. Riley stated that he cherishes these items and uses them in prayer and ceremonies. Mr. Riley stated his family knew what to do with these items when he goes home to the Creator.

Ms. Vernelda Grant, San Carlos Apache Tribe, stated she was tribal archaeologist and THPO for the San Carlos Apache Tribe, as well as the NAGPRA representative and Director of the Historic Preservation Department. Ms. Grant stated that these responsibilities could be a heavy burden. Ms. Grant described her educational history, leading to a master's degree in Southwest archaeology and applied anthropology, as well as her service on several national- and state-level committees. Ms. Grant stated she shared this with the Review Committee because in her life

as an Apache woman there was a reason she was an archaeologist; this was spelled out for her. In her prayers she asks for guidance for this work that can be both a burden and a blessing. The matter before the Review Committee was very difficult to discuss but it was done on behalf of her people and all human kind. It was very important for the 45 items to come home because they affect the Apache society.

Mr. Steve Titla, San Carlos Apache Tribe, described the conditions on the reservation at the time the objects were taken by Mr. Earl Goddard, American Museum of Natural History, in 1914. Prior to that time, the Apache people were hunters and gatherers in Arizona, New Mexico, and old Mexico. During the Apache wars, the Apache were put in concentration camps and not allowed to hunt or gather traditional foods. The Apache were given insufficient weekly rations and prevented from practicing their traditional religion and ceremonies. By the time Mr. Goddard came to the reservation, the Apaches were in a demoralized state and living in extreme poverty. During those extreme conditions the Apache were coerced into transferring the items. In order to have a binding contract, both parties must agree willingly, knowledgeably, and without coercion. The Apache position is that no contract took place due to the circumstances at the time. Mr. Titla stated his family has been involved with traditional ways for a long time, at times participating in ceremonies in secret.

In closing, Mr. Randall stated that it was not enough to receive the items; the items must come back in the right way with proper respect. To do otherwise would offend the Holy Beings, which would result in heavy consequences.

Review Committee Questions and Discussion

Ms. Worl stated that she would like to acknowledge her brothers and sisters from the South and expressed her appreciation for sharing their sacred items. Ms. Augustine stated while reading the information submitted for this request, she felt how sacred these items were and she had to stop reading. Ms. Augustine stated that as a traditional woman she respects other peoples' ceremonial objects, and in reading the information and based on her feelings it was clear that these items were sacred objects and objects of cultural patrimony. Ms. Augustine stated that the return of the items was only part of the healing process; the people also need an acknowledgement that that they were hurt in order to begin the healing process.

Mr. Wright, Jr., stated it was clear that the items were sacred objects and objects of cultural patrimony, that consultation took place, and that adequate information was submitted to meet the minimum requirements for making this determination based on Apache culture and tradition. Mr. Wright, Jr., stated that the regulations contain loopholes that create difficulties for tribal people when they try to show the Western civilization what their tribal society means, its traditions and culture. At some point, bridging these gaps in understanding becomes a matter of basic trust and respect.

Ms. Atalay thanked the individuals for sharing such sensitive information and items, and stated that as a Native woman she was ashamed that the Apache had to come before the Review Committee in order to prove their case. Speaking as a scientist, Ms. Atalay stated that she relies on knowledge and information provided by people. The job of scientists is to gather information from the traditional people, as they are the ones who possess and care for this knowledge. The people who are the holders of the information need to be the ones determining whether items are sacred objects or objects of cultural patrimony.

Mr. Hemenway thanked the representatives for coming to the meeting; their presence shows the importance of this issue. Mr. Hemenway stated that the information provided in the materials demonstrate how the difficult times experienced by the Apache led to this situation. Mr. Hemenway stated he writes repatriation claims for his tribe and described difficulties with the process. Mr. Hemenway stated the oral traditions of tribes need to be taken more seriously. NAGPRA provides that oral histories were a line of evidence. Mr. Hemenway stated that oral histories were the strongest line of evidence for proving that an item is cultural patrimony.

Ms. Worl stated she felt museums have an ethical responsibility to make determinations for these types of objects. Ms. Worl stated that it was clear from the testimony and materials that these objects were central to the Apache, owned by the spirits, used by the community, and removed without the consent of the tribe. Ms. Worl stated she would be ready to make findings of fact concerning the identity of the 45 items.

Mr. Monroe thanked the individuals for their courageous testimony, stating it was clear that the Review Committee members felt it was unfortunate that this testimony was necessary. The American Museum of Natural History made

a decision to repatriate all of the items requested in this case. Implicitly that meant that the museum found the items to be sacred objects, objects of cultural patrimony, or both, but the American Museum of Natural History had not made those findings explicitly clear in the Federal Register Notice of Intent to Repatriate. The Apache made it very clear why the determination of the NAGPRA category was critically important to them.

Review Committee Motion

Ms. Worl made a motion that the Review Committee find that each of the 45 items in question, in fact, was both a sacred object and an object of cultural patrimony, as requested by the Western Apache Working Group.

Ms. Augustine seconded the motion. The motion passed unanimously.

Requests for Recommendations Regarding the Disposition of Culturally Unidentifiable Native American Human Remains – Comments by Review Committee Members

Mr. Wright, Jr., asked about the authority for and the process involved in requests for recommendations regarding the disposition of culturally unidentifiable Native American human remains. Mr. Simpson stated that one of the Review Committee's responsibilities was to make recommendations to the Secretary of the Interior regarding whether agreements for the disposition of culturally unidentifiable human remains between tribes and museums or Federal agencies should be approved. Mr. Wright, Jr., stated for the record that the term "culturally unidentifiable" was not a term recognized by Native people.

Request for a Recommendation Regarding an Agreement for the Disposition of Culturally Unidentifiable Native American Human Remains in the Possession of Grand Canyon National Park, AZ

Presentation

Mr. Steve Martin, Superintendent, Grand Canyon National Park, stated that Grand Canyon National Park was requesting a recommendation regarding an agreement for the disposition of nine culturally unidentifiable Native American human remains to the Havasupai Tribe of the Havasupai Reservation (Havasupai Tribe) on behalf of all potentially affiliated tribes. In consultation with the tribes, Grand Canyon National Park determined that the nine individuals were Native American and of prehistoric date, based on nondestructive examinations conducted in 1995 and 2008. The determination was further supported by the geographic context in which the human remains were found. The geographic evidence, though limited, showed that the human remains were collected from Federal lands managed by the NPS and historically occupied by the Havasupai Tribe, the Hualapai Indian Tribe of the Hualapai Indian Reservation, the San Juan Southern Paiute Tribe of Arizona, the Paiute Indian Tribe of Utah, the Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, the Las Vegas Band of Paiute Indians of the Las Vegas Indian Colony, the Moapa Band of Paiute Indians of the Moapa River Indian Reservation, the Hopi Tribe of Arizona, the Navajo Nation, the Yavapai-Apache Nation of the Camp Verde Indian Reservation, and the Zuni Tribe of the Zuni Reservation. All of these tribes were considered to be potentially affiliated and participated in the consultation process. There was no biological, archaeological, linguistic, or other evidence to inform a specific cultural affiliation determination. Thus the Native American human remains were determined to be culturally unidentifiable. The determination was supported by all of the consulting tribes.

Mr. Martin stated the consulting tribes requested that Grand Canyon National Park move forward with this request for disposition to the Havasupai Tribe in order to return the human remains to the ground as quickly as possible. Mr. Martin stated he supported this request, and thanked the Review Committee for considering this matter.

Mr. Matthew Putesoy, Sr., Vice Chairman for the Havasupai Tribe, stated the Havasupai Tribe had been living in the Grand Canyon for thousands of years, and was the only tribe still living in the Grand Canyon. The Havasupai Tribe supports this request and was honored to begin the disposition process for their ancestors. As mentioned earlier, there are things that are very, very sacred to the Indian way of life, and the entire community suffers when these things are not in balance.

Ms. Dianna Sue Uqualla, Councilwoman for the Havasupai Tribe, stated she was a traditionalist and was taught things about her people, including the medicines and other things they use. Ms. Uqualla honored the people appearing earlier from the Yavapai-Apache Tribe and their sharing of sensitive ceremonial objects. Ms. Uqualla stated that she knew the human remains from this request that were found in cave-like dwellings were Havasupai because that type of burial was used by Havasupai from ancient times. Ms. Uqualla stated she believes that they were buried in that way because the Havasupai have always believed and understood that they were part of the Grand Canyon. Ms. Uqualla thanked the Review Committee.

Review Committee Questions and Discussion

Ms. Atalay stated the letter from the tribal chairman indicated that reburial of the human remains in question would occur within the boundaries of the Grand Canyon National Park, and asked if that was possible. Mr. Martin stated that it was possible.

Review Committee Motion

Ms. Worl made a motion to approve the request of Grand Canyon National Park, AZ, regarding the disposition of culturally unidentifiable Native American human remains representing a minimum number of nine individuals to the Havasupai Tribe on behalf of the potentially affiliated tribes. Mr. Hemenway seconded the motion. Ms. Worl called the question. The motion was adopted unanimously.

Request for a Recommendation Regarding an Agreement for the Disposition of Culturally Unidentifiable Native American Human Remains in the Possession of the Denver Museum of Nature and Science, CO

Presentation

Mr. Chip Colwell-Chanthaphonh, Curator of Anthropology and NAGPRA Officer at the Denver Museum of Nature and Science, stated that beginning in the fall of 2007 the Denver Museum of Nature and Science created a plan to proactively address through consultation the future of Native American human remains left in its collection. In 2008, the museum received a NAGPRA grant to address the culturally unidentifiable Native American human remains from the greater Rocky Mountain region in its collection and began consultation with 82 tribes. This request was the first agreement to result from those consultations.

In May 2009, the Denver Museum of Nature and Science met with 15 tribes to consult on human remains representing 16 individuals and their associated funerary objects. Following that meeting, the Denver Museum of Nature and Science consulted with an additional 28 tribes by email, telephone, letters, and in person. Following these consultations, an agreement was reached for the disposition of 16 individuals and their associated funerary objects to the Hopi Tribe of Arizona; the Pueblo of Acoma, New Mexico; the Pueblo of Zia, New Mexico; and the Zuni Tribe of the Zuni Reservation, New Mexico. The Hopi Tribe of Arizona would serve as the lead tribe. In addition to these four tribes, a total of 17 tribes submitted formal letters of support for this disposition; no tribe objected to the proposed disposition. Mr. Colwell-Chanthaphonh thanked the tribes for their involvement and patience and thanked the Review Committee for their time and consideration.

Review Committee Motion

Ms. Worl made a motion to approve the request of the Denver Museum of Nature and Science, CO, regarding the disposition of culturally unidentifiable Native American human remains representing a minimum number of 16 individuals and their associated funerary objects to the Hopi Tribe of Arizona; the Pueblo of Acoma, New Mexico; the Pueblo of Zia, New Mexico; and the Zuni Tribe of the Zuni Reservation, New Mexico. Ms. Atalay seconded the motion. Mr. Monroe called the question. The motion was adopted unanimously.

The Review Committee commended the efforts of the involved parties both for their successful consultative relationships and their exemplary documentation.

Request for a Recommendation Regarding an Agreement for the Disposition of Culturally Unidentifiable Native American Human Remains in the Possession of Grand Rapids Public Museum, MI

Presentation

Ms. Marilyn Merdzinski, Director of Collection and Preservation, Grand Rapids Public Museum, MI, stated that since receiving a 2008 NAGPRA documentation grant, Grand Rapids Public Museum had worked to be fully compliant with NAGPRA. In the past 14 months, the Grand Rapids Public Museum was able to consult with tribes and determine cultural affiliation for collections from 7 sites. The request before the Review Committee includes 104 individuals and 746 associated funerary objects from 22 sites throughout the Lower Peninsula of Michigan. The Grand Rapids Public Museum consulted with 20 federally recognized tribes throughout Michigan, in addition to tribes from Oklahoma, Wisconsin, Minnesota, and Kansas. A total of 11 tribes joined as parties to this agreement.

Mr. Chris Carron, Director of Interpretation and Research, Grand Rapids Public Museum, MI, described the process by which the human remains were determined to be Native American. For the majority of the human remains, nondestructive forensic analysis allowed a determination that they were Native American. Some human remains were too fragmentary to allow for this kind of analysis. In those cases, the determination that they were Native American was made through associated funerary objects and archaeological site context. Further determinations were made through museum and collector records. The Grand Rapids Public Museum made the determination that all of the individuals represented in the agreement were more likely than not Native American. Through consultation and consideration of oral history, geography, cultural practices and aboriginal land ownership, the Grand Rapids Public Museum was able to establish a cultural relationship between the human remains and the group of present-day tribes.

Mr. Kevin Daugherty, Pokagon Band of Potawatomi Indians in Indiana and Michigan, stated that consultation with Grand Rapids Public Museum was a cooperative and collaborative process. The tribes in Michigan formed an alliance to address repatriation issues, the Michigan Anishinabek Cultural Preservation and Repatriation Alliance (MACPRA). All of the tribes in Michigan today were Anishinabek, Ojibwe, Odawa, or Potawatomi. Mr. Daugherty stated that based on oral histories he believes that all human remains that come from Michigan, Indiana, and the Great Lakes area are his ancestors, and he has a responsibility to care for them in a good way.

Ms. Winnay Wemigwase, Director of Archives, Records and Cultural Preservation Department for the Little Traverse Bay Bands of Odawa Indians in Northern Michigan and Vice President of MACPRA, thanked Ms. Merdzinski and Grand Rapids Public Museum for their positive efforts and relationship with the tribes. Ms. Wemigwase described the longstanding tribal tradition of the Feast of the Dead or Ghost Suppers. This tradition continues to the present and includes the construction of wreaths to honor relatives who passed away and invite them to the Ghost Suppers. Ms. Wemigwase stated that the tribes have a responsibility to ensure that all ancestors come home so the tribes can give them the care and respect they deserve.

Ms. Summer Cohen, President of MACPRA, stated that even though the tribes in Michigan have different names – Ojibwe, Potawatomi and Odawa – they were all Anishinabe and were all related. This was very similar to the tribal ancestors. They should not be identified and divided by labels such as “Historic,” but should be considered as part of a related group.

Ms. Sydney Martin, MACPRA Representative for the Match-e-be-nash-she-wish Band of Potawatomi Indians in Southwest Michigan, stated that despite a long repatriation history, her tribe had never been approached by a museum to be included in a repatriation request. The Grand Rapids Public Museum was open and helpful throughout this process. Ms. Martin stated that she and others have been active in repatriation for years, and she was very pleased to have had such a positive experience, especially given the negative attitude of some members of the public during the tribe’s process of seeking Federal recognition.

Review Committee Questions and Discussion

Ms. Atalay and Mr. Hemenway recused themselves from the disposition request.

Review Committee Motion

Ms. Worl made a motion to approve the request of the Grand Rapids Public Museum, MI, regarding the disposition of culturally unidentifiable Native American human remains representing a minimum number of 104 individuals and 746 associated funerary objects to the tribal groups listed in the agreement, which include: the Little Traverse Bay Bands of Odawa Indians, the Little River Band of Ottawa Indians, the Bay Mills Indian Community, the Keweenaw Bay Indian Community, the Lac Vieux Desert Band of Lake Superior Chippewa Indians, the Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan, the Saginaw Chippewa Indian Tribe of Michigan, the Sac and Fox Nation, the Pokagon Band of Potawatomi Indians, and the Sault Ste. Marie Tribe of Chippewa Indians of Michigan. Mr. Wright, Jr., seconded the motion. Ms. Worl called the question. The motion was adopted unanimously, with two recusals (Ms. Atalay and Mr. Hemenway).

Mr. Wright, Jr., stated that this request demonstrates a concern with regard to the statute and the restrictions placed upon the Government to deal with federally recognized tribes even though lineal descendants may not be members of federally recognized tribes. Ms. Atalay stated that while she had to recuse herself from the discussion and vote, she wanted to acknowledge that this was a very well-documented and researched case, and she singled out the work of Mr. Andrews regarding cultural affiliation.

Request for a Recommendation Regarding an Agreement for the Disposition of Culturally Unidentifiable Native American Human Remains in the Possession of the Georgia Department of Transportation, GA

Presentation

Mr. Eric Duff, Archaeologist, Georgia Department of Transportation, stated that the Georgia Department of Transportation was requesting a recommendation regarding an agreement for the disposition of culturally unidentifiable Native American human remains representing two individuals and their associated funerary objects to the United Keetoowah Band of Cherokee Indians in Oklahoma. The two individuals were from the Lover's Lane Site. The Georgia Department of Transportation consulted with potentially affiliated Indian tribes. No other tribes expressed an interest in participating in the disposition, nor were there any objections to the proposed disposition to the United Keetoowah Band. The Georgia Department of Transportation respectfully requested the Review Committee's recommendation in favor of the agreement.

Review Committee Motion

Ms. Worl made a motion to approve the request of the Georgia Department of Transportation, GA, regarding the disposition of culturally unidentifiable Native American human remains representing a minimum number of 2 individuals and 15 associated funerary objects to the United Keetoowah Band of Cherokee Indians in Oklahoma. Ms. Augustine seconded the motion. The motion was adopted unanimously.

Six Requests for a Recommendation Regarding an Agreement for the Disposition of Culturally Unidentifiable Native American Human Remains in the Possession of the University of Colorado Museum, CO

Introductions

Individuals present to make the requests included: Mr. Stephen Lekson, Curator of Anthropology at the Museum of Natural History, University of Colorado – Boulder; Ms. Jan Bernstein, Bernstein and Associates, NAGPRA Consultants; Ms. Christina Cain, Collections Manager for Anthropology, University of Colorado Museum; and Ms. Darlene Conrad, THPO Officer for the Northern Arapaho Tribe.

Mr. Lekson stated that the University of Colorado and the Museum of Natural History were over a hundred years old and had a history of collecting human remains in the United States from the West, Southwest, Plains, Great Basin, and Rocky Mountain regions. Over the years, the University of Colorado Museum accumulated 635 sets of human remains. The University of Colorado Museum has consulted with tribes, working systematically through its collection, and had repatriated 360 sets of human remains to date. Notices of Inventory Completion were done for another 17 sets of human remains for which claims were anticipated in the near future. Throughout the process

leading to these requests, the University of Colorado Museum consulted with 82 different tribes, including face-to-face consultations with 56 tribes, many of which were on multiple occasions. Mr. Lekson stated that the six requests before the Review Committee were the result of those consultations and involved collections from six different locations.

Request 1: Unknown Geographic Location

Presentation

This request was for the disposition of culturally unidentifiable Native American human remains representing a minimum number of 235 individuals and 10 associated funerary objects with no ascribable geographic data to the Ute Mountain Ute Tribe of the Ute Mountain Reservation (Ute Mountain Ute Tribe) and the Pueblo of Isleta. A university osteologist reviewed the collection to determine whether the human remains were Native American, and through this process determined that these 235 human remains were Native American, while others – not included in this request – were not. Based on the history of the University of Colorado Museum and its anthropology department, the University of Colorado Museum was confident that the human remains come from the American West and were Native American. The Ute Mountain Ute Tribe and the Pueblo of Isleta requested the disposition to them of these human remains. Mr. Lekson stated that although Mr. Terry Knight was unable to be at the meeting, Mr. Knight asked Mr. Lekson to remind the Review Committee of the Colorado protocol, in which Colorado tribes have agreed that the Ute Mountain Ute Tribe or the Southern Ute Indian Tribe of the Southern Ute Reservation would take the lead in the disposition of culturally unidentifiable Native American human remains from state and private lands within Colorado. Mr. Lekson stated that the University of Colorado Museum contacted all 82 potentially affiliated tribes regarding this request and received no objections.

Review Committee Questions and Discussion

Ms. Augustine stated that the University of Colorado Museum did an amazing amount of work and could serve as an example for other museums that have culturally unidentifiable Native American human remains. Ms. Atalay asked for clarification regarding the osteological review. Mr. Lekson stated that when NAGPRA was passed, the anthropology department transferred all of the human remains in its collection to the museum. The osteologist was able to determine, through nondestructive examination of all human remains from unknown geographic locations, which human remains were likely to be Native American and those were included in the request. Even though these collections had no geographic information associated with them, the University of Colorado Museum was confident through its collection history that the remains came from the western United States and were Native American.

Review Committee Motion

Ms. Worl made a motion to approve the request of the University of Colorado Museum, CO, regarding the disposition of culturally unidentifiable Native American human remains representing a minimum number of 235 individuals and 10 associated funerary objects from unknown geographic locations to the Ute Mountain Ute Tribe and the Pueblo of Isleta. Ms. Atalay seconded the motion. The motion was adopted unanimously.

Request 2: Grand County, UT and Mesa County, CO

Presentation

This request was for the disposition of culturally unidentifiable Native American human remains representing a minimum number of five individuals and two associated funerary objects from Grand County, UT and Mesa County, CO to the Ute Mountain Ute Tribe. The human remains and associated funerary objects were excavated during university excavations near the Grand Junction area. The University of Colorado Museum consulted with a number of tribes whose aboriginal lands encompassed these sites, and the tribes requested that these human remains be classified as culturally unidentifiable.

Review Committee Motion

Mr. Hemenway made a motion to approve the request of the University of Colorado Museum, CO, regarding the disposition of culturally unidentifiable Native American human remains representing a minimum number of five individuals and two associated funerary objects from Grand County, UT and Mesa County, CO, to the Ute Mountain Ute Tribe. Mr. Wright, Jr., seconded the motion. The motion was adopted unanimously.

Request 3: Moffat County, CO

Presentation

This request was for the disposition of culturally unidentifiable Native American human remains representing a minimum number of two individuals from Moffat County, CO, to the Ute Mountain Ute Tribe. The human remains came from a site within what is now Dinosaur National Monument. The museum consulted with a number of tribes whose aboriginal lands encompassed these sites, and the tribes requested that these human remains be classified as culturally unidentifiable.

Review Committee Motion

Mr. Wright, Jr., made a motion to approve the request of the University of Colorado Museum, CO, regarding the disposition of culturally unidentifiable Native American human remains representing a minimum number of two individuals from Moffat County, CO, to the Ute Mountain Ute Tribe. Mr. Hemenway seconded the motion. The motion was adopted unanimously.

Request 4: Boulder County, CO

Presentation

This request was for the disposition of culturally unidentifiable Native American human remains representing a minimum number of two individuals and two associated funerary objects from Boulder County, CO, to the Ute Mountain Ute Tribe. Although no further geographic information is available, for reasons listed in the introduction, the University of Colorado Museum believes these human remains are Native American.

Review Committee Motion

Mr. Hemenway made a motion to approve the request of the University of Colorado Museum, CO, regarding the disposition of culturally unidentifiable Native American human remains representing a minimum number of two individuals and two associated funerary objects from Boulder County, CO, to the Ute Mountain Ute Tribe. Ms. Atalay seconded the motion. The motion was adopted unanimously.

Request 5: Washington County, CO

Presentation

This request was for the disposition of culturally unidentifiable Native American human remains representing a minimum number of three individuals from Washington County, CO, to the Ute Mountain Ute Tribe. The human remains came from the Claypool Site, a very old Paleo-Indian site in north-central Colorado.

Review Committee Motion

Ms. Atalay made a motion to approve the request of the University of Colorado Museum, CO, regarding the disposition of culturally unidentifiable Native American human remains representing a minimum number of three individuals from Washington County, CO, to the Ute Mountain Ute Tribe. Ms. Augustine seconded the motion. The motion was adopted unanimously.

Request 6: Converse County, WY

Presentation

This request was for the disposition of culturally unidentifiable Native American human remains representing a minimum number of one individual from Converse County, WY, to the Arapaho Tribe of the Wind River Reservation. The human remains were from the Little Box Elder Site. Ms. Darlene Conrad, Northern Arapaho Tribe, stated she spoke with the ceremonial Elders of the tribe who made the decision to proceed with the disposition of these human remains from within their ancestral area.

Review Committee Questions and Discussion

Mr. Monroe asked for addition information on the Little Box Elder Site. Mr. Lekson stated that the site was a cave or overhang with very old faunal types. One human tooth was found, which was determined by paleontologists to be Native American but from an unknown time period.

Review Committee Motion

Ms. Augustine made a motion to approve the request of the University of Colorado Museum, CO, regarding the disposition of culturally unidentifiable Native American human remains representing a minimum number of one individual from Converse County, WY, to the Arapaho Tribe of the Wind River Reservation. Ms. Atalay seconded the motion. The motion was adopted unanimously.

Mr. Monroe thanked the representatives of the University of Colorado Museum and tribes for all of their hard work in these six requests.

Five Requests for a Recommendation Regarding an Agreement for the Disposition of Culturally Unidentifiable Native American Human Remains in the Possession of the New York University College of Dentistry, NY**Introductions and Opening Statements**

Individuals present to make the requests included: Mr. Lou Terracio, Dean of Research at New York University College of Dentistry; Ms. Lauren Sieg, NAGPRA Consultant; Mr. Ray Stands, Cultural Coordinator for the Paiute-Shoshone Tribe of the Fallon Reservation and Colony; Mr. Leo R. Henry, Tuscarora Nation of New York; Ms. Andrea Hunter, THPO, Osage Nation; and Ms. June Carpenter, NAGPRA Assistant, Osage Nation. The New York University College of Dentistry requested a recommendation from the Review Committee for the disposition for each case as follows:

Request 1: Niagara County, NY**Presentation**

This request was for the disposition of culturally unidentifiable Native American human remains representing two individuals from Niagara County, NY, to the Tuscarora Nation of New York. Mr. Henry stated that the human remains were from Tuscarora land from a Neutral Indian site. The Tuscarora Nation of New York has been the recipient of repatriated Neutral Indians in the past and would like to receive these human remains and return them to Mother Earth.

Review Committee Motion

Ms. Atalay made a motion to approve the request of the New York University College of Dentistry, NY, regarding the disposition of culturally unidentifiable Native American human remains representing a minimum number of two individuals from Niagara County, NY, to the Tuscarora Nation of New York. Ms. Augustine seconded the motion. The motion was adopted unanimously.

Request 2: Benton County, AR**Presentation**

This request was for the disposition of culturally unidentifiable Native American human remains representing three individuals from Benton County, AR, to the Osage Nation. Mr. Terracio stated that the human remains were removed from two rockshelters in Benton County; two individuals from Allred Bluff and one individual from Salts Bluff Shelter 1. Forensic examination of the human remains and their archaeological context suggests that the human remains are Native American and date from the Late Archaic Period and Early Woodlands Period, between 2000 B.C. and 100 A.D. The region in which the rock shelters were located is part of the ancestral territory of the Osage Nation.

Ms. Carpenter thanked the Review Committee for hearing the requests and provided information on the history of the Osage Nation. The Osage believe that they were in the area for hundreds of years. The first recorded encounter with Europeans occurred in 1673 in southwest Missouri. In 1802, several thousand Osage moved into Arkansas, becoming the Arkansas Osage. Due to their longevity in the region, the Osage Nation wishes to take responsibility for the human remains found in their ancestral homelands, even though their true cultural affiliation was unknown. The Quapaw, who also had a presence in Arkansas, support the Osage Nation's request for the disposition.

Review Committee Motion

Ms. Worl made a motion to approve the request of the New York University College of Dentistry, NY, regarding the disposition of culturally unidentifiable Native American human remains representing a minimum number of three individuals from Benton County, AR, to the Osage Nation. Ms. Atalay seconded the motion. The motion was adopted unanimously.

Request 3: Stutsman County, ND**Presentation**

This request was for the disposition of culturally unidentifiable Native American human remains representing one individual from Stutsman County, ND, to the Standing Rock Sioux Tribe of North & South Dakota. Mr. Terracio stated that the human remains were removed from an unknown site near Spiritwood Lake in east-central North Dakota. Given the absence of information regarding the site or the antiquity of the human remains, the identifiable earlier group to which they belong cannot be determined. A determination of cultural affiliation was further complicated by the distinct populations that inhabited the region during different time periods. Historically eastern North Dakota was a territory of the Sioux. The Standing Rock Sioux Tribe of North & South Dakota requested the disposition to them of the human remains. This request had the support of other tribes in the region.

Review Committee Motion

Mr. Wright, Jr., made a motion to approve the request of the New York University College of Dentistry, NY, regarding the disposition of culturally unidentifiable Native American human remains representing a minimum number of one individual from Stutsman County, ND, to the Standing Rock Sioux Tribe of North & South Dakota. Ms. Worl seconded the motion. The motion was adopted unanimously.

Request 4: Churchill County, NV**Presentation**

This request was for the disposition of culturally unidentifiable Native American human remains representing one individual from Churchill County, NV, to the Paiute-Shoshone Tribe of the Fallon Reservation and Colony. The human remains were recovered from Lovelock Cave, in an area that had been disturbed by animals at some point. Forensic examination and archaeological information indicated that the human remains were Native American and were estimated to be between 3,500 and 4,500 years old, which corresponds to the earliest known use of the cave. At the time of contact, the Northern Paiute occupied the region of Lovelock Cave. The Paiute continued to express interest in the respectful treatment of human remains from their traditional territory. The Great Basin NAGPRA Coalition was formed to address NAGPRA claims such as this, and the Paiute-Shoshone Tribe of the Fallon Reservation and Colony have been designated to act as the lead in this case.

Mr. Stands, Paiute-Shoshone Tribe of the Fallon Reservation and Colony, stated he spoke with the new Chairman of the Lovelock Paiute Tribe of the Lovelock Reservation, who was thankful that his relatives were coming home in a timely manner.

Review Committee Questions and Discussion

Mr. Wright, Jr., recused himself from the request.

Review Committee Motion

Mr. Hemenway made a motion to approve the request of the New York University College of Dentistry, NY, regarding the disposition of culturally unidentifiable Native American human remains representing a minimum number of one individual from Churchill County, NV, to the Paiute-Shoshone Tribe of the Fallon Reservation and Colony. Ms. Augustine seconded the motion. The motion was adopted unanimously, with one recusal (Mr. Wright, Jr.).

Request 5: Three Locations in Florida**Presentation**

This request was for the disposition of culturally unidentifiable Native American human remains representing nine

individuals from three locations in Florida. The human remains were removed from mounds in Broward County (one individual), Levy County (one individual), and a mound in an unknown location (seven individuals). Forensic examination and archaeological data from the known sites also indicated that the human remains were Native American.

The mound in Broward County was located near Lettuce Lake at Pompano Beach on the southeast coast of Florida. The area around Broward County has been identified as Tequesta territory, a distinct group that was believed to have disappeared in the early 1700s.

The mound in Levy County was found on Hogs Island, which is located in the Gulf of Mexico just off of the mainland and north of Cedar Keys, in an area called the northwest peninsular coast. Archaeological evidence suggests that the human remains were from the Weeden Island II phase, dating from approximately 150 A.D. to 450 A.D. Although archaeological records suggest that the north peninsular coast was a distinct region during the Weeden Island Period until 1200 A.D., the current lack of information precludes identification of the region with a distinct group after that date.

The unidentified mound from east Florida is believed to be located in the central and northern parts of the east coast of Florida, the area generally designated as east Florida. This region corresponds geographically to the course of the St. Johns River and its tributaries and is identified as the territory of the Timucua. Although the site location was not identified, many mounds were constructed along the St. Johns River. The history of the area suggests that diseases introduced by Europeans decimated the populations by the early to mid 1700s. The void created by the disappearance of Florida groups opened this area to migration by the Lower Creek. The Creek communities in Florida eventually grew independent of the Creek Nations in the North and became known as the Seminole and Miccosukee.

The Miccosukee Tribe of Indians of Florida requests that the remains of the nine individuals be transferred to the Miccosukee so that they can be reburied. The Miccosukee were unable to attend the meeting, but explained in their position letter that the Miccosukee feel compelled to care for those that precede them so that their spirits will be at rest.

Review Committee Questions and Discussion

Ms. Atalay stated that these remains were mainly crania and mandibles and asked for any information about where the remaining human remains of these individuals might be located. Mr. Terracio stated that this collection was received in 1956 from what is now the National Museum of the American Indian and given to an anthropologist. Ms. Sieg stated that it was a collection of partial human remains as the anthropologist who received the collection was mainly interested in the study of teeth.

Review Committee Motion

Ms. Atalay made a motion to approve the request of the New York University College of Dentistry, NY, regarding the disposition of culturally unidentifiable Native American human remains representing a minimum number of nine individuals from three sites in Florida to the Miccosukee Tribe of Indians of Florida. Mr. Hemenway seconded the motion. The motion was adopted unanimously.

Request for a Recommendation Regarding an Agreement for the Disposition of Culturally Unidentifiable Human Remains in the Possession of the Pioneer Historical Society of Bent County, CO

Presentation

Ms. Kathryn Finau, Project Coordinator for the Pioneer Historical Society of Bent County, thanked the Review Committee for hearing the request and thanked the Cheyenne and Arapaho Tribes of Oklahoma for consulting and agreeing to this proposed disposition. Ms. Finau stated that the Pioneer Historical Society initially presented this request for disposition at the Review Committee meeting in De Pere, WI, in May 2008. Since that time new evidence has come to light, and the request was now for the disposition of culturally unidentifiable Native American human remains representing a minimum number of four individuals and eight lots of associated funerary objects.

The original evidence still stands. The human remains and funerary objects were collected by Mr. Dan Kaufman, a known hobby collector of Native American cultural items, and later were donated to the Pioneer Historical Society by his wife. Mr. Kaufman was known to collect only Native American cultural items and donated only Native American cultural items to the Pioneer Historical Society.

Mr. Richard Williams, Cheyenne-Arapaho Tribes of Oklahoma, stated that the members of his tribe are scattered and live on individual allotted lands rather than on a reservation. Mr. Williams stated that ceremonies continue to be very important to the tribe, as well as the retention of their language and teachings. Mr. Williams stated that it was time for these human remains to come home.

Review Committee Questions and Discussion

Ms. Augustine shared a personal story demonstrating the power of ancestors working with the Native people who assist in the reburial process and the dedication of Native people to return their ancestors to the earth.

Mr. Hemenway asked for clarification about the donor of the human remains from the unknown geographical location. Ms. Bernstein stated that the human remains in the request were donated by two different individuals, both of whom were known to collect only Native American materials.

Review Committee Motion

Mr. Hemenway made a motion to approve the request of the Pioneer Historical Society of Bent County, CO, regarding the disposition of culturally unidentifiable Native American human remains representing a minimum number of four individuals and eight lots of associated funerary objects to the Cheyenne and Arapaho Tribes. Mr. Wright, Jr., seconded the motion. The motion was adopted unanimously.

Comments from the Review Committee for the Drafters of a Proposed Rule Regarding the Rule to be Codified at 43 CFR 10.7

Section 3(a) of NAGPRA deals with the ownership or control of Native American cultural items excavated or discovered on Federal or tribal lands after November 16, 1990. Section 3(b) (25 U.S.C. 3002(b)) deals with cultural items that are not claimed under section 3(a). The section reserved in the regulations – to be codified at 43 CFR 10.7 – that will address the disposition of unclaimed human remains, funerary objects, sacred objects, or objects of cultural patrimony remains to be promulgated.

Since 2005, the National NAGPRA Program has conducted several public consultation sessions on 43 CFR 10.7. Prior to the Seattle, WA meeting (May 22-23, 2009), the Review Committee received a CD containing an executive summary of all of these consultations, as well as complete electronic copies of all relevant documents produced to date. To advance the process, the National NAGPRA Program engaged the services of Ms. Patricia Zell, an attorney who helped write NAGPRA and who has extensive rulemaking experience. In addition, a Federal agency work group has been assembled to provide input on these regulations, as the rule will essentially incorporate best practices for Federal agencies in the disposition of Native American human remains and cultural items discovered on Federal and Indian lands. The Federal agency work group submitted issues for the Review Committee's consideration at the meeting.

Ms. Worl stated one question the Review Committee was asked to consider was whether unclaimed cultural items should continue to be retained by the managers of the lands on which they were excavated or discovered. Ms. Worl stated she would rather have these objects go to a central, or even regional, repository for unclaimed objects, which would need to be established.

Mr. Wright, Jr., asked for clarification of the proposed definition section, which was submitted to the Review Committee as follows:

A cultural item is considered an "unclaimed object" if –

- (1) an identified potential claimant with standing to make a claim does not exercise their right to claim an object;
- (2) an identified potential claimant does not have legal standing to make a claim for an object; or

(3) the Federal land manager cannot identify any potential claimant(s) for an object.

Ms. Mattix stated that item (3) was a catchall category. Ms. Mattix stated that the possible participation of nonfederally recognized Indian groups was incorporated into the rule with their inclusion in the definitions section. Mr. Simpson stated that throughout the process, the rights of federally recognized Indian tribes were being protected. Nonfederally recognized Indian groups can continue to work with federally recognized Indian tribes to participate in the disposition process. Ms. Hutt stated that this section regarding unclaimed items was for discoveries on tribal or Federal land after November 16, 1990, and the category of “unclaimed” would only apply after the hierarchy of potential claimants had been exhausted and no claimant with standing came forward or was identified.

Ms. Augustine stated that the regulation should prohibit the use for educational purposes of any unclaimed cultural item held in a central repository. Mr. Hemenway stated he would like to see regional tribes work together on agreements for ceremonial use of unclaimed items.

Ms. Augustine stated that the many tribes working on repatriation issues share an affinity and a common belief, expressed to her by tribal Elders, that there was no such thing as an “unclaimed” cultural item. Ms. Augustine stated her firm belief that there should be No Ancestor Left Behind, and that tribes working on repatriation would eventually work to claim all ancestral human remains. Ms. Augustine stated the process needed to allow for that possibility.

Ms. Worl stated that the creation of a database of unclaimed human remains and associated funerary objects was very important to ensure that all of the information was available for tribes to consider. Ms. Worl stated she felt there should be no use of unclaimed items; however she would not be opposed to the use of photos for identification purposes. Ms. Augustine stated that some tribes will not participate in the repatriation process for cultural reasons, but that other tribes might be willing to do repatriation activities on their behalf.

National NAGPRA Program Year-End Report on the Implementation of NAGPRA (FY2009)

Presentation by Ms. Sherry Hutt

Ms. Hutt welcomed the Review Committee to the meeting, and stated she would summarize the accomplishments of the year for the National NAGPRA Program. The Review Committee members received copies of the draft National NAGPRA Program Year-End Report on the Implementation of NAGPRA (FY2009), and were welcome to submit comments.

Once completed, the National NAGPRA Program Year-End Report on the Implementation of NAGPRA (and past reports) can be found on the National NAGPRA Program website at:

<http://www.nps.gov/history/nagpra/DOCUMENTS/INDEX.htm>

Notices: Ms. Hutt stated that notice publication was a barometer of the activities by museums and Federal agencies to consult with tribes. A notice was the culmination of work on inventories, summaries, compliance documentation, consultation with tribes, and often grant activities. The National NAGPRA Program published 200 notices in FY2009 and 108 notices in FY2008, due in large part to the efforts of Ms. Jaime Lavallee, Notice Coordinator. Ms. Lavallee works with museums and Federal agencies on their notices and then compares the notices to the inventories to confirm that the information is complete. The 200 published notices from FY2009 represent 38,671 human remains and almost a million associated funerary objects. At some point in the near future, the National NAGPRA Program would like to begin periodic reports on an analysis of how many culturally affiliated human remains contained in inventories have been represented in a published notice, which would be another measure of the NAGPRA process.

Grants: Ms. Hutt stated that FY2009 grant requests were up 100 percent over FY2008, both in the number of requests and the total amount requested. A total of \$4.5 million was requested and \$1.85 million awarded. This increase was thanks to the efforts of Ms. Sangita Chari, Grants and Outreach Coordinator, who worked closely with past unsuccessful grant applicants to help them submit improved grants proposals. Ms. Chari and Ms. Hutt provide

staff support to the grant panel, trying to ensure that each request was a quality submission for the grant panel's consideration.

Database and Website: Ms. Hutt stated that, as has been discussed at past meetings, the National NAGPRA Program has been working to improve the program's databases in order to enable easier access to the information needed to better implement NAGPRA. Ms. Mariah Soriano, Database and Website Coordinator, has worked to update the system and databases, including the database of culturally unidentifiable human remains and the database of culturally affiliated inventory (currently in process). Once complete, information in the two databases can be cross-referenced, enabling facilitation of cultural affiliation determinations, as well as identifying those culturally affiliated human remains that have not been identified in a notice.

Training: Ms. Hutt stated that training numbers were down in FY2009 compared to FY2008, in part due to decreased travel of National NAGPRA Program staff. At the Seattle, WA meeting (May 23-24, 2009), Ms. Hutt described the NAGPRA video project, a multi-segment video series that will encompass all aspects of NAGPRA. The segment on civil penalties was shown at the Seattle, WA meeting. Ms. Hutt stated that work has progressed on the NAGPRA video series. Two segments, grants and notices, were ready for preview following the meeting recess on the first afternoon of the Sarasota, FL meeting. The Review Committee received a summary of the video project to date, including project partners, locations of interviews, and number and names of individuals who had been interviewed. The Review Committee also received a summary of National NAGPRA training seminars done in partnership with the National Preservation Institute, as well as copies of training evaluations, which were requested previously by the Review Committee.

Civil Penalties: Ms. Hutt stated that one large civil penalty matter was investigated in FY2009, with the number of counts under review by the Assistant Secretary. Ms. Hutt summarized the civil penalties process for the new members of the Review Committee. In response to a question by Mr. Monroe, Mr. Tarler stated that seven Notices of Penalty Assessment involving six museums have been issued by the Assistant Secretary for a total amount of \$38,490, of which \$26,170 had been paid; one assessment for \$12,320 was in the 45-day waiting period.

Regulations: Ms. Hutt stated that work has continued on two reserved sections of the regulations; 43 CFR 10.7, Disposition of unclaimed human remains, funerary objects, sacred objects, or objects of cultural patrimony, and 43 CFR 10.11, Disposition of culturally unidentifiable human remains. Over the past year, a working group has been addressing the content of the future 43 CFR 10.7. This matter would be discussed during the meeting as a separate agenda item. The second reserved section, 43 CFR 10.11, is still under review. Review by the Department of the Interior was completed toward the end of FY2009. The rule then went to the Office of Management and Budget (OMB) where it currently is under review. Following completion of the review process, the rule will be published as a final rule. Ms. Hutt stated that although the rulemaking process does limit comment on the rule prior to publication, she wanted to recognize the efforts of Ms. Mattix and Mr. Simpson, who worked extensively on the rule, incorporating legal responses in the preamble to all comments submitted on the proposed rule.

Ms. Hutt stated that the National NAGPRA Program was pleased to introduce its newest staff member, Mr. Richard Waldbauer. Mr. Waldbauer began on October 1, 2009, and will be working on technical documents, reports, and regulations. Mr. Waldbauer was familiar with NAGPRA, having worked years earlier with the NAGPRA Program before it was separated from the Park NAGPRA Program. One of Mr. Waldbauer's first projects would be to consider technical and other amendments to the original 1995 regulations. Any thoughts of the Review Committee on this subject would be appreciated.

Government Accountability Office (GAO) Study Update: Ms. Hutt stated that the GAO study was well underway, and the National NAGPRA Program was happy to provide information and comply fully with any GAO requests.

Internship Program: Ms. Hutt stated the National NAGPRA Program has had, and continues to have, a number of gifted interns working with the program. This enables the program to complete research and projects at a modest expense in return for providing the interns with hands-on work experience.

Issue of 300 Backlogged Draft Notices: Ms. Hutt stated she wanted to address the claim that the National NAGPRA Program has a backlog of 300 draft notices. Ms. Hutt stated that the notice publication process is driven by museums and Federal agencies. The National NAGPRA Program provides the administrative function of publishing

NAGPRA notices after first reviewing them to ensure complete and accurate information and obtaining the museum's or Federal agency's authorization to publish. It is the institution's authorization to publish a draft notice that satisfies compliance with NAGPRA, and not the submission of a draft notice to the National NAGPRA Program.

Ms. Hutt stated that in 2005, shortly after she joined the National NAGPRA Program, she found that the National NAGPRA Program had a past practice of putting draft notices on hold and that 300 draft notices had been put on hold and removed from the publication process. Ms. Hutt stated that the "on-hold" category was eliminated, those 300 draft notices were put back into the publication process, and work began to move the draft notices toward publication. Ms. Lavalley made publication of these draft notices a priority. To date, over 220 of the original 300 "on hold" notices have been published. Of the remainder, a number were found to have been submitted in error, and no Federal Register publication was necessary. Possible reasons for this would include: the items had already been covered in a published notice; a repository had submitted the original draft notice but the repository was not in control of the items; a determination was revised by the originator to culturally unidentifiable; the originator requested the draft notice be removed for additional consultation or revision of inventory; or other reasons (the items belonged in a Notice of Intended Disposition, the items were determined not to be Native American, or the items did not fall under the jurisdiction of NAGPRA). Currently, 22 of the original 300 "on hold" draft notices remain open. In most of these cases, the institution is consulting with tribes and will likely publish its notice during FY2010.

Ms. Hutt stated that the National NAGPRA Program has not pulled any notice from publication. In order to publish a draft notice, the National NAGPRA Program must receive written authorization from the museum or Federal agency. Ms. Hutt stated the time had come to end the myth that the National NAGPRA Program withdraws notices, as it is harmful to tribes. Mr. Monroe asked that the record reflect that the National NAGPRA Program has addressed, and largely solved, the very serious issue of "on hold" notices.

Culturally Unidentifiable Human Remains Database: Ms. Hutt stated that the culturally unidentifiable Native American human remains database currently listed 124,377 human remains. The National NAGPRA Program has been working to ensure all data has been entered in the database in order to concentrate on aiding consultation and cultural affiliation determinations.

Presentation by Ms. Sangita Chari

Grants Retrospective: Ms. Chari described a new publication of the National NAGPRA Program, *Journeys to Repatriation: 15 Years of NAGPRA Grants (1994-2008)*. This retrospective contains grant data, including statistics on amounts awarded by type, year, and geographic area, a description of the grant process, and inspirational stories of tribes and museums. An electronic copy of the grants retrospective can be found at:

<http://www.nps.gov/history/nagpra/NAGPRA-GrantsRetroFinal.pdf>

NAGPRA at 20: Ms. Chari stated that, in recognition of the 20th anniversary of NAGPRA, a two-day symposium titled "NAGPRA at 20" will take place prior to the Review Committee meeting in November 2010. The purpose of the symposium will be to assess the impact of NAGPRA on tribes, museums, and Federal agencies. Ms. Chari stated that the National NAGPRA Program assembled a committee consisting of representatives of tribes, museums, and Federal agencies to help organize the symposium. Regular updates on NAGPRA at 20 will be posted on the National NAGPRA website, which can be found at: <http://www.nps.gov/history/nagpra/>.

Review Committee Questions and Discussion

Ms. Worl asked for an update on the Review Committee's recommendations from the Seattle, WA meeting to amend the charter. Ms. Hutt stated that the recommendations of the Review Committee to amend the charter, by reinstating both the quorum requirement and the holdover provision, were taken to the Department for consideration.

Mr. Hemenway stated he was responsible for dispositions for his tribe, and he wanted to recognize and thank the National NAGPRA Program staff for their help and advice in that process. Ms. Augustine thanked the National NAGPRA Program staff for their hard work. Ms. Worl expressed appreciation for the work of the program staff and complimented the video project and grants retrospective report.

Presentation, Discussion, and Approval of the Review Committee's Report to Congress for 2008, as required by 25 U.S.C. 3006 (h)

Discussion of the Review Committee's Report to Congress for 2008

At the Seattle, WA meeting, Ms. Atalay and Mr. Goodman were appointed to the subcommittee to draft the Review Committee's report to Congress for 2008. Ms. Atalay acknowledged the efforts of Mr. Goodman, who was absent from the meeting due to illness. Ms. Atalay reviewed the draft report, which encompassed the Review Committee's activities and progress through calendar year 2008. The report also contains a section describing various barriers encountered in the NAGPRA implementation process, as well as possible solutions. These barriers include the large number of human remains and associated funerary objects classified as culturally unidentifiable, the considerable costs associated with NAGPRA compliance, the necessity of completing the three reserved regulation sections, the lack of adequate information on the status of Federal agency compliance, the need for increased funding for the resolution of outstanding civil penalty investigations, and the lack of a uniform Federal policy on reburial on Federal lands.

Ms. Atalay summarized the four main recommendations of the draft Review Committee report to Congress for 2008, which include:

1. Increasing funding for grants to Indian tribes, Native Hawaiian organizations, and museums, while funding each Federal agency's compliance requirements in the amount requested by the administration.
2. Meeting with museums and Federal agencies with large CUI inventories, as well as tribes that are possible descendants, at upcoming meetings as a way to better understand the problems encountered with large CUI holdings.
3. Developing and adopting a uniform reburial policy on Federal lands in consultation with Federal agencies, Indian tribes, and Native Hawaiian organizations.
4. Amending the definition of "Native American" at 25 U.S.C. 3001 (9) by adding the words "or was" so that it reads: "'Native American' means of, or relating to, a tribe, people, or culture that is or was indigenous to the United States."

Ms. Worl recommended including a summary report of disputes heard by the Review Committee and their subsequent resolution. Ms. Hutt stated that information on each dispute, the recommendation of the Review Committee, any published notice, and any grants awarded in order to fulfill the recommendations would be available. However, the National NAGPRA Program does not have the authority to conduct the proposed follow-up survey, nor does the National NAGPRA Program have the authority to inquire about post-Federal Register notice activities or transfers.

Mr. Wright, Jr., stated it was important that the report include the number of human remains in the culturally unidentifiable database in the report and recognize that the number continues to increase. Ms. Atalay stated that having the input of tribes on the barriers they have encountered in NAGPRA implementation would be valuable for future reports to reports to Congress.

Review Committee Motion

Mr. Wright, Jr., made a motion to approve the Review Committee's report to Congress for 2008, subject to the recommendations offered by the Review Committee members during their discussion at the meeting. Ms. Worl seconded the motion. The motion was adopted unanimously.

Review Committee Motion

Mr. Wright, Jr., made a motion that the Review Committee reaffirm its support to amend the definition of "Native American" at 25 U.S.C. 3001 (9) by adding the words "or was" so that it reads: "'Native American' means of, or relating to, a tribe, people, or culture that is or was indigenous to the United States." Ms. Worl seconded the motion. The motion was adopted unanimously.

Once completed, the 2008 report to Congress (and past reports) can be found on the National NAGPRA Program website at: http://www.nps.gov/history/nagpra/REVIEW/Reports_to_Congress/RTC_Index.htm

Discussion of the Review Committee's Report to Congress for 2009

Ms. Worl discussed the Review Committee's report to Congress for 2009. In light of the 20-year anniversary of NAGPRA, Ms. Worl asked that the Review Committee's report include a recommendation that Congress hold hearings and receive testimony from tribes, museums, and other interested groups about how NAGPRA has been working and about possible future legislative and executive actions. Mr. Monroe stated that the Review Committee would work to draft the 2009 report to Congress for approval at the spring 2010 meeting.

Update on the Status of the Government Accountability Office (GAO) Study

Mr. Jeff Malcolm, Assistant Director, U.S. GAO, stated that the GAO was part of the Legislative Branch of the Federal government and essentially works for Congress. The GAO received a bicameral request from the Chairman of the Indian Affairs Committee and the Chairman of the House Resources Committee to look at Federal agency NAGPRA implementation, and possibly include in the study a survey of post-Federal Register notice activities. Mr. Malcolm stated that kick-off meetings were held with targeted Federal agencies, and individual follow-up meeting are underway. Once the design process for the study was complete, the information would be presented to the Congressional committees and a scope of study would be finalized. Mr. Malcolm stated that the GAO could consider including in its study a survey of the consequences of the Review Committee's published findings of fact and recommendations following a dispute. The Review Committee members stressed the importance of gathering this essential information to allow the Review Committee, the National NAGPRA Program, and Congress to make determinations as to whether the process is working and to identify possible remedial actions.

Review Committee Motion

Ms. Worl made a motion that the Review Committee respectfully request that the GAO consider the inclusion of the consequences of the Review Committee's dispute findings in their study. Ms. Atalay seconded the motion. Mr. Simpson stated the request would most appropriately come directly from the Review Committee and not through the DFO. The motion was adopted unanimously.

House Natural Resources Committee Hearing on NAGPRA – October 7, 2009

Mr. Monroe stated that the Review Committee appreciates the fact that there was Congressional interest in NAGPRA and its implementation, and hopes that the October 7, 2009 hearing would be followed by additional opportunities for tribes and museums to participate in providing testimony on the status of NAGPRA. Mr. Monroe asked for a summary of the presentations and discussion at the hearing.

Ms. Hutt provided a summary of the information which the National NAGPRA Program was asked to present to the Natural Resources Committee of the House of Representatives. The National NAGPRA Program was asked a number of questions about 300 draft notices that were purported to have been removed from publication by the National NAGPRA Program. Of the 300 draft notices in question, a total of 221 had, in fact, been published as of the hearing date. Most of the remaining draft notices had been administratively closed by the originating museum or Federal agency because they decided that publication of these draft notices in the Federal Register was not necessary. Possible reasons for this would include: the items had already been covered in a published notice; a repository had submitted the original draft notice but the repository was not in control of the items; a determination was revised by the originator to culturally unidentifiable; the originator requested the draft notice be removed for additional consultation or revision of inventory; or other reasons (the items belonged in a Notice of Intended Disposition, the items were determined not to be Native American, or the items did not fall under the jurisdiction of NAGPRA). To date, of the 300 draft notices, 22 of them still await resolution. The National NAGPRA Program was asked to provide copies of the draft notices and all correspondence between the National NAGPRA Program and the museum or Federal agency concerning the draft notices, and it did so. The record clearly documents the vigorous efforts of Ms. Lavalley to work with the museums and Federal agencies throughout the notice process.

Mr. Simpson summarized the other presentations. The Caddo Nation testified to the fact that they had applied for and received one NAGPRA grant, but that a subsequent grant application was unsuccessful, that they favored more NAGPRA training, and that they believed the process was generally working well. The Western Apache Coalition's testimony basically focused on the matter they presented to the Review Committee at the Sarasota, FL meeting. The Society for American Archaeology's testimony dealt with the proposed version of the rule on the disposition of culturally unidentifiable human remains (to be codified at 43 CFR 10.11), and was consistent with the written comments they previously had submitted in response to the publication of the proposed rule. The National Association of Tribal Historic Preservation Officers (NATHPO) and Mr. Colin Kippen (a past Review Committee member and its immediate past Chair) testified concerning the National NAGPRA Program in general, the draft

notice issue described by Ms. Hutt, and the difficult job the Review Committee had in synthesizing all of the information and completing its work. Mr. Simpson stated that the Natural Resources Committee asked various questions, including whether the indigenous peoples of the United States' Territories are included in NAGPRA, and was advised that they are not included.

Mr. Monroe stated that no current member of the Review Committee was asked to testify, nor was the Review Committee, the only statutorily designated body to make comments and reports to Congress, involved in the process. While the information gathered at the hearing was valuable, Mr. Monroe stated there would be value in having a much broader spectrum of viewpoints from tribes and museums for Congress to consider. Mr. Monroe stated it would be beneficial to this process for the Review Committee to expeditiously complete both the 2008 and 2009 reports to Congress. Ms. Worl stated she agreed on the importance of open hearings in which tribes, museums, and other groups can provide testimony.

Guidance on Repatriation and the 90-Day Rule

Presentation

Ms. Mattix stated that section 7 of the statute essentially says that once cultural affiliation has been determined Federal agencies and museums must expeditiously repatriate the items. In the regulations at 43 CFR 10.10 (a) and (b), the meaning of expeditiously was interpreted to be what is sometimes called the 90-day rule. These regulations basically say that once all of the portions of a claim were confirmed to be valid and upon receipt of a written request, the Federal agency or museum had 90 days to repatriate, with the stipulation that a Federal Register notice had been published and the 30-day waiting period had run.

Ms. Mattix stated that given the complexity of this rule, guidance was being developed to help clarify and explain what the timelines mean and provide examples. Ms. Mattix stated that the guidance would be available for review and discussion by the Review Committee following appropriate Departmental review and approval.

Review Committee Questions and Discussion

Mr. Hemenway stated that the 90-day rule has proven to be an effective tool to ensure timely completion of disposition requests. Mr. Monroe agreed, but also stated that situations arise for which 90 days was clearly an insufficient amount of time to ensure an adequate consultation period and the compilation of information. Mr. Monroe stated that he looked forward to hearing the guidance. Ms. Worl stated she had a study that would be appropriate for consideration as an example in the guidance, a very successful disposition from the Phoebe Hearst Museum at the University of California – Berkeley. Mr. Wright, Jr., asked whether the guidance would be an informal guide, rather than rulemaking. Ms. Mattix stated that this guidance would come from the National NAGPRA Program, while any potential amendments to the current regulations would come in the future.

Dates and Location of Upcoming Meetings

Ms. Hutt stated that recent budget cuts within the Federal government, including specific cuts in travel monies, have resulted in a shortage in the budget for the National NAGPRA Program. As a result, changes to the Review Committee's meeting schedule are required. Ms. Hutt asked that the Review Committee consider rescheduling the spring 2010 Washington, DC meeting to November 2010. Instead, the Review Committee could meet telephonically in spring 2010. This would allow two meetings to occur in FY2010 under the current budget; the in-person meeting in Sarasota, FL, in October 2009 and the telephonic meeting in spring 2010. The November 2010 meeting in Washington, DC, would coincide with the 20th anniversary of NAGPRA and could be held in conjunction with the NAGPRA at 20 conference described by Ms. Chari. The Review Committee could hold two in-person meetings in FY2011 because holding the meeting in Washington, DC, would significantly reduce staff travel costs and thus would allow a second in-person meeting in spring 2011. Ms. Hutt stated that planning efforts are currently underway for spring 2011 meeting in Syracuse, NY, through the invitation by the Haudenosaunee Standing Committee.

Ms. Worl stated she was concerned about the effectiveness of teleconference meetings, especially for substantive matters, and would not like to see this become a repetitive pattern. For this teleconference, Ms. Worl recommended

including CUI disposition agreement requests and, in response to Ms. Atalay's comments regarding the Review Committee's report to Congress, presentations on barriers encountered in NAGPRA implementation.

After discussion, the Review Committee agreed to hold a teleconference meeting in spring 2010 and in-person meetings in Washington, DC, in November 2010 and in Syracuse, NY, in spring 2011. The Review Committee asked the National NAGPRA Program to further consider ways to address budget concerns while still holding in-person meetings.

Presentation – Ms. Christine Abrams and Ms. Shannon Keller O'Loughlin

Ms. Christine Abrams

Ms. Abrams stated she was a citizen of the Tonawanda Seneca Nation and a member of the Beaver Clan. Ms. Abrams extended greetings from the Haudenosaunee, the Council of Chiefs of the member nations, the Clan Mothers, Faith Keepers, and the men, women, and children. The Haudenosaunee, which means People Who Live in the Longhouse or People of the Longhouse, were also known as the Six Nations Confederacy or Iroquois Confederacy. Ms. Abrams thanked the Review Committee for the opportunity to speak and stated she was the Acting Chair of the Haudenosaunee Standing Committee on Burial Rules and Regulations, an entity sanctioned by the Grand Council of Chiefs and responsible for issues related to NAGPRA, Section 106 of the National Historic Preservation Act, protection of sacred sites, and the duty to care for their ancestors, the burial sites, and human remains. Ms. Abrams described several extensive and frustrating experiences during repatriation activities, but emphasized that they were committed to continuing to fulfill their responsibilities as long as any of their ancestors were in museums, universities, repositories, or even private homes, waiting for their relatives to come for them.

Ms. Abrams stated that desecration of ancestors' burials was a violation of spiritual beliefs, human rights, treaty rights, and religious freedom. The ancestors' journey was interrupted and the spiritual well-being of today's people put in jeopardy. Ms. Abrams stated that the issue of culturally unidentifiable human remains was perplexing and frustrating. She asked what use they could be if they cannot provide answers and cannot be connected to a culture or people. America protects and memorializes the remains of its unknown soldiers, and they are treated with respect and dignity. Ms. Abrams stated she agreed with Mr. Wright, Jr., that the term "culturally unidentifiable" was not acceptable. Ms. Abrams stated she was saddened by the earlier testimony which demonstrated the great efforts tribes had to make to demonstrate affiliation with sacred objects, cultural patrimony, and human remains. Ms. Abrams stated she hoped her words in some way demonstrate how seriously the Haudenosaunee take these matters, and she thanked the Review Committee for the opportunity to speak.

Ms. Shannon Keller O'Loughlin

Ms. Keller O'Loughlin, member of the Choctaw Nation of Oklahoma and the tribal attorney for the Onondaga Nation, stated she was asked to submit a statement by Mr. Anthony Gonyea, NAGPRA representative for the Onondaga Nation, providing an update on the Onondaga Nation's dispute with the New York State Museum. In September 2009, the Onondaga Nation reburied 180 ancestors removed in 1967 from the Engelbert Site in Nichols, New York, which was within the Onondaga Nation's aboriginal territory. Previously, the New York State Museum, without consulting any Indian tribes, determined the human remains to be culturally unaffiliated based on age alone. Despite consultation efforts by the Onondaga Nation and the provision of documentation concerning affiliation (including oral history, material culture, geography, linguistics, and other expert opinion), the New York State Museum refused to affiliate the ancestors with the Onondaga Nation or any other Indian nation. At that point, the Onondaga Nation submitted a dispute request to the Review Committee. The Review Committee heard the dispute at its meeting in October 2008 and found that the Native American human remains from the Engelbert Site were culturally affiliated with the Onondaga Nation.

Ms. Keller O'Loughlin summarized the status of the matter following the Review Committee's October 2008 decision. The New York State Museum refused to come to the Onondaga Nation to meet with nation citizens and discuss the issue of cultural affiliation, and the museum would only talk with the NAGPRA representative, Mr. Gonyea, and the Onondaga Nation's attorney. The New York State Museum rejected the terms by which the Onondaga Nation requested to move forward and delayed the disposition in order to obtain a NAGPRA grant, which they did not receive. The New York State Museum did not provide a draft Federal Register notice for the Onondaga Nation's review until February 2009, four months after the Review Committee's finding. In addition the New York

State Museum did not conduct itself in an open manner during the process, and the Onondaga Nation was forced to communicate through its attorney. When asked about the disposition by the press, the Director of the New York State Museum stated that the determination was made by the Review Committee and was not a museum decision, despite the New York State Museum's Federal Register notice of inventory completion stating that the determinations in the notice were those of the New York State Museum. During its October 2008 meeting, the Review Committee also recommended that the New York State Museum reevaluate its culturally unidentifiable determinations. To date, the New York State Museum has not responded to repeated requests by Mr. Gonyea for information regarding this reevaluation.

Ms. Keller O'Loughlin stated that in 2008 the Haudenosaunee Standing Committee sent an invitation to the Review Committee to come to the Central Fire of the Haudenosaunee Confederacy in spring 2011. Syracuse University is a private university in Syracuse, NY, that has been very supportive of Haudenosaunee students and the Indian nation communities that surround Syracuse. The Haudenosaunee Standing Committee has been working with Syracuse University to serve as the venue for a Review Committee meeting to be held, probably, during the first week of June 2011. Syracuse University has an affiliated hotel located on campus. The Haudenosaunee Standing Committee has been working with the Haudenosaunee nations to coordinate additional events and social activities.

Review Committee Questions and Discussion

Ms. Augustine expressed her appreciation for the efforts of the Onondaga Nation and her understanding of their frustration. Mr. Wright, Jr., thanked the Onondaga Nation for the update on the Review Committee's recommendation, and stated his tribe has faced similar issues and frustrations in implementing Review Committee findings of fact and recommendations. Mr. Wright, Jr., stated that it was unfortunate that many tribal issues have to go to court rather than being able to rely on existing Federal laws. Ms. Keller O'Loughlin stated that in her cultural resource work she has encountered museums that do not seem to want to comply with NAGPRA and her advice to her clients was to get assistance from the National NAGPRA Program in order to ensure that formal requests are properly prepared.

Review Committee Motion

After discussion, the Review Committee decided to ask the New York State Museum for an update on the progress made following the Review Committee's recommendation to reevaluate the New York State Museum's cultural affiliation decisions. Mr. Hemenway made a motion that the Review Committee send a query to the New York State Museum to obtain information on the implementation or actions taken with respect to the Review Committee's recommendation, with a request for such information to be provided by the next meeting. Ms. Atalay seconded the motion. The motion passed unanimously.

Presentation

Mr. Bobby C. Billie

Mr. Bobby C. Billie, Council of the Original Miccosukee Simanolee Nation, stated Ms. Larsen was going to speak and read his prepared statement.

Ms. Shannon Larsen

Ms. Shannon Larsen, Ancient Trees, stated that at the April 2007 Review Committee meeting in Washington, DC, Mr. Billie testified in opposition of the request for a recommendation regarding the disposition of culturally unidentifiable Native American human remains in the possession of the University of Florida made by Mr. Jerald Milanich, curator at the University of Florida. Mr. Billie opposed the reburial of ancestral remains and their belongings by non-Native Americans and was opposed to the proposed sampling of the remains prior to reburial and the retention of the samples. At that time, Mr. Billie stated he would be in favor of the reburial if no samples were obtained and the reburial was done by an indigenous person. The Review Committee approved the request, but also recommended that the University of Florida consult with the Seminole Tribe of Florida, the Miccosukee Tribe of Florida, the Seminole Nation of Oklahoma, as well as the Independent Seminole Nation of Florida regarding the details of the reburial and the retention of samples. Ms. Larsen stated that in the Designated Federal Official's letter to the University of Florida, the University of Florida was told that "in addition you may also wish to consult with the Independent Seminole Nation of Florida," leaving the Review Committee's recommendation to consult with the Original Miccosukee Simanolee Nation open to interpretation by the University of Florida.

Ms. Larsen stated that Mr. Billie has dedicated himself for years to the repatriation of ancestral remains and their belongings. However, recently Mr. Billie has been removed from the process and some reburials were done by non-Native people. Ms. Larsen stressed the importance of indigenous people being involved in this process, stating that their traditional knowledge was key in understanding the issue and ensuring that the ancestors' reburials were done completely and correctly. Ms. Larsen described several difficult reburials over the years and some of the problems Mr. Billie has faced.

Ms. Larsen stated that recently there have been newspaper accounts of a dig in a National Preserve in Duvall County at what might be a burial mound. Despite their repeated attempts, neither Mr. Billie nor Ms. Larsen has been able to get any answers regarding the site or the activity. Ms. Larsen stated that Mr. Billie does not know the current status of the reburial request from the University of Florida, other than the issue was being overseen by the Seminole Tribe of Florida. Mr. Billie's attempts to consult with Mr. Milanich have been unsuccessful. Mr. Billie would like to request that the Review Committee inquire into this issue.

Mr. Bill Hamilton

Mr. Hamilton stated that he was present at the meeting at the invitation of Mr. Billie and has worked with Mr. Billie and Ms. Larsen for 20 years. Mr. Hamilton stated that he was very concerned with environmental issues and the declining health of the world. Mr. Hamilton stated that the indigenous people, many of whom are not federally recognized, have a lot to teach the world as they still understand traditional ways. Many have chosen to not be federally recognized because they have their own established governments. These people need to be located in order to identify this traditional knowledge. Mr. Hamilton stated that concern over sacred sites and repatriation issues was worldwide and submitted a statement to the Review Committee on this issue from an indigenous group in Northern Columbia. Mr. Hamilton stated more protection of burial sites was needed, with criminal consequences for grave robbing.

Mr. Vincent Jimmie

Mr. Vincent Jimmie, Council of the Original Miccosukee Simanolee Nation, stated he was at the meeting at the request of Mr. Billie. Mr. Jimmie stated human remains and artifacts were very sacred and to discuss them or remove them from sacred burial ground was very offensive and violates cultural law. Some of the indigenous people who live by their traditional culture, and who are not affiliated with the government, are the ones who know how to do the ceremony for the reburial of human remains. Mr. Jimmie stated that when a member of the Miccosukee or Seminole or Independent Tribes passes away, he is called to take care of them.

Mr. Cecil Osceola

Mr. Cecil Osceola, Council of the Original Miccosukee Simanolee Nation, stated that in 1936, there was a Seminole Conference where a group of Seminole leaders met with then Florida Governor Sholtz and members of his cabinet, who wanted to offer aid to the Indians in the trying times following the Great Depression. Fearing removal from the Everglades, the Seminole refused the aid. Mr. Osceola stated his grandfather was present at that conference and later explained to his grandson that they refused the aid in order to think about the land, the swamp, the Everglades, the animals, and especially the afterlife. Mr. Osceola stated that independence was so important that they were willing to fight and die to protect their land. Mr. Osceola stated that when dealing with these type of issues, people should seek the advice of the people who really know the traditions and can help, the aboriginal people still living, his people.

Mr. Bobby C. Billie

Mr. Bobby C. Billie stated that in the beginning when the Creator created life and gave each creation life, that was the natural law. The law was not the papers from the newcomers; the papers can be changed. The papers can lie like the people lie. Mr. Billie said that no matter what law the government makes, they will not follow it because it will not benefit them. The newcomers were breaking the law of the country and need to straighten up the facts of the land. Mr. Billie said it makes them mad that they break the natural law and continue to dig up the ancestors for profit. This was ruining the land and causing the bad things, the climate things, and people getting sick and going crazy. Mr. Billie said people need to straighten up before it is too late. God gave the land and everything comes from the land. The humans' creations were killing the future of life, disturbing the ancestors, and bringing back disease. Mr. Billie stated people need to go back to the natural way of life without the papers and the technology so no more was destroyed. Mr. Billie gave each Review Committee member an egret feather, and stated that when

his people have to talk about a law that is broken, they sit and talk about it until it gets straightened out; then they give each other the feathers. Mr. Billie hoped the feathers would clear their minds and allow the Review Committee to follow the direction of the natural law. Mr. Billie stated he hoped they would be included in this because they worry about the life on earth.

Review Committee Questions and Discussion

Ms. Augustine stated she would like to have a follow-up report on the disposition of the culturally unidentifiable Native American human remains in the possession of the University of Florida, and also additional information on the excavations in Duvall County described by Ms. Larsen.

Review Committee Motion

Ms. Augustine made a motion that the Review Committee recommend to the Department of the Interior to follow up on the issue of the April 2007 request by the University of Florida for the disposition of culturally unidentifiable Native American human remains from the Tatham Mound in Citrus County, FL. Mr. Wright, Jr., seconded the motion. The motion was adopted unanimously.

Public Comment – Ms. Sandra Dong

Ms. Sandra Dong, Peabody Museum of Archaeology and Ethnology at Harvard University, gave a brief update on the Peabody Museum's NAGPRA implementation for the past year. In FY2009, the Peabody Museum completed NAGPRA inventories for 39 individual human remains and 167 associated funerary objects under the regulations on future applicability. The Peabody Museum hosted five NAGPRA consultation visits by nations from Connecticut, Oklahoma, New York, and Montana. Four physical dispositions were done accounting for 58 human remains, 6 associated funerary objects, and 10 unassociated funerary objects; one of the dispositions was funded by a NAGPRA grant. To date, the Peabody Museum has completed physical dispositions for 2,906 human remains, 3,821 funerary objects, 1 sacred object, 57 objects of cultural patrimony, and 18 items that were both sacred objects and objects of cultural patrimony. The Peabody Museum continues to consult with nations across the country and to develop co-curation agreements for traditional care.

Public Comment – Mr. Frank Wozniak

Mr. Frank Wozniak, NAGPRA Coordinator for the Southwestern Region, USDA Forest Service, and National NAGPRA Coordinator, USDA Forest Service, provided the Review Committee with updated information on collections from National Forest system lands prior to the enactment of NAGPRA, dated September 30, 2009. Mr. Wozniak stated that a copy of this report was also given to the GAO representatives on their site visit in September 2009. The report was a compilation of the statistics; nationally, by region, and by individual reporting units. Mr. Wozniak stated that the Forest Service has 6,200 human remains within its collections. To date, dispositions have been done for approximately 800 human remains and over 16,000 funerary objects. Of the remaining 5,800 human remains, two pending disposition requests account for 4,400 of those; 1,400 sets of human remains from Tonto National Forest and 3,000 sets of human remains from the Coconino National Forest. Mr. Wozniak stated that those two requests were progressing at a pace that was satisfactory to the tribes. Of the remaining 1,400 sets of human remains in the Forest Service collection, 842 were culturally unidentifiable. Mr. Wozniak stated the Review Committee members were welcome to ask any questions regarding the report at any time and provided his contact information.

Public Comment – Ms. Cyd Martin and Mr. Fred York

Ms. Cyd Martin, Program Manager for Park NAGPRA, NPS, and Mr. Fred York, Regional Coordinator for NAGPRA, Pacific West Region, NPS, provided a brief update on issues previously heard by the Review Committee concerning National Park units. Ms. Martin stated that Hawaii Volcanoes National Park continues to work on the issue of the five summary objects determined to be unassociated funerary objects. After broad consultation, 14 claimants came forward, all Native Hawaiian organizations equally qualified to receive the objects. As the 14

claimants do not agree on the disposition of the objects, the Hawaii Volcanoes National Park would retain the objects until an agreement was reached. Hawaii Volcanoes National Park continues to try to facilitate agreement and hosted a meeting of the claimants in September 2009. The meeting went well, and one Native Hawaiian organization will be applying for a NAGPRA grant to help facilitate more meetings among the group to try to come to some accommodation.

Mr. York stated that in 2008 the Review Committee heard a request by Fort Vancouver National Historical Reserve for the disposition of culturally unidentifiable Native American human remains representing approximately 12 individuals. Mr. York stated that the Federal Register notice was published, the tribes and the park worked together in selecting an appropriate location for reburial in the park, and the reburial took place on October 2, 2009.

Closing Comments

Ms. Worl thanked the indigenous people of Florida for their hospitality. Ms. Worl expressed appreciation to Mr. Colin Kippen for his service on the Review Committee. Ms. Worl stated that while the issue of nonfederally recognized tribes has been problematic and ongoing for the Review Committee, she believes that all Indian tribes and groups in the nation support the reburial of ancestors. Ms. Worl stated she honors those tribes that are involved in NAGPRA and that try to do the best they can, even though they may be reinterring ancestors who may not be culturally affiliated with their tribe. Ms. Worl stated that as a Native person she has a love/hate relationship with museums because, while the museums have many of the ancestors, she is grateful that they have been cared for in a respectful manner and have not passed into private collections. Ms. Worl stated her love/hate relationship extends to archaeologists, but that she thinks there has been a lot of progress in terms of developing sensitivities and a greater understanding of Native American culture and belief systems.

Mr. Monroe stated that he would like to recognize Mr. Kippen's contributions to the Review Committee over his several years of service. Mr. Monroe stated that he thought NAGPRA has helped to expand the opportunities for people from museums and federally and non-federally recognized tribes alike, to come together and to understand that there are basic values that are important to all, to respect one another for their differences, and to join together in commonality as human beings.

Meeting Adjournment

The meeting was adjourned at 3:21 p.m., Saturday, October 31, 2009.

Certified –

Signed

Mr. David Tarler,
Program Officer, National NAGPRA Program
Designated Federal Officer, Native American Graves Protection
and Repatriation Review Committee

January 28, 2010

Date

Approved on behalf of the Review Committee –

Signed

Mr. Dan Monroe
Acting Chair, Native American Graves Protection
and Repatriation Review Committee

February 8, 2010

Date